

# **EXHIBIT D**



**Ninety-Seventh Legislature - Second Session - 2002**  
**Committee Statement**  
**LB 1278**

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**Hearing Date:** February 27, 2002

**Committee On:** Judiciary

**Introducer(s):** (Brashear, Dierks)

**Title:** Provide for indirect damages in certain anti-trust actions

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**Roll Call Vote – Final Committee Action:**

- Advanced to General File  
X Advanced to General File with Amendments  
Indefinitely Postponed
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**Vote Results:**

7	Yes	Senators Baker, Brashear, Chambers, Connealy, Pedersen, Quandahl, Tyson
	No	
	Present, not voting	
1	Absent	Senator Robak

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**Proponents:**

Senator Kermit Brashear  
Senator Cap Dierks

**Representing:**

Introducer  
self

**Opponents:**

**Representing:**

**Neutral:**

Dale Comer

**Representing:**

Department of Justice

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**Summary of purpose and/or changes:**

Currently, Nebraska law does not allow indirect parties within a distribution chain who are harmed through a business transaction by an antitrust violation the ability to sue for damages.

Legislative Bill 1287 amends current statutes to allow damages to be recovered by both direct and indirect parties in antitrust violation cases.

LB 1278 provides that where both direct and indirect parties are involved, a defendant shall be entitled to prove as a defense to a claim for damages, that the illegal charge has been passed on to others who are themselves entitled to recover. To achieve fairness and avoid multiplicity of suits, LB 1278 also provides that when claims are asserted by direct and indirect

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parties, the court may transfer and consolidate cases, apportion damages and delay disbursement of damages.

**Explanation of amendments, if any:**

The committee amendment furthers the intent and purpose of the bill by making technical changes to LB 1278.

Instead of using the language "damages may be either direct or indirect" to describe the parties allowed to participate in an action when an antitrust violation has occurred, the committee amendment describes such parties as any person injured as a result of the antitrust violation "whether such injured person dealt directly or indirectly with the defendant."

LB 1278 amends Chapter 59, Article 8 of the Nebraska Statutes which is entitled Unlawful Restraint of Trade. The committee amendment also amends Chapter 59, Article 16 of the Nebraska Statutes which is the Consumer Protection Act. Such amendment allows those directly or indirectly injured by antitrust violations under the Consumer Protection Act to participate as a party in actions arising out of such violations.

The other changes made by the committee amendment harmonize sections under Chapter 59, Articles 8 and 16.

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**Senator Kermit A. Brashear, Chairperson**